

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:)	
JOSEPH MARTIN THOMAS,)	Bankruptcy No. 20-10334-TPA
c/o Tri-State Pain Institute)	
Debtor.)	Chapter No. 11
)	Related to Doc. No. 265
)	Hearing March 25, 2021 @ 10:00

The United States of America, on behalf of the United States Small Business Administration (“SBA”), hereby objects to the Disclosure Statement filed by Joseph Martin Thomas (“Debtor”) stating as follows:

1. The Disclosure Statement does not contain the “adequate information” required by 11 U.S.C. § 1125(b) “that would enable . . . a hypothetical investor of the relevant class to make an informed judgment about the plan.” *See* 11 U.S.C. § 1125(a) and (b).

2. Adequate information is defined by the Code as “information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records . . . , that would enable . . . a hypothetical investor of the relevant class to make an informed judgment about the plan” *See* 11 U.S.C. § 1125(b).

3. In addition, section 1129(a)(1) provides that “the court shall confirm a plan only if . . . [t]he plan complies with the applicable provisions of this title.” 11 U.S.C. § 1129(a)(1).

4. Section 1123(a)(4) requires that a plan “provide the same treatment for each claim . . . of a particular class, unless the holder of a particular claim . . . agrees to a less favorable treatment of such particular claim.” 11 U.S.C. § 1123(a)(4).

5. The SBA filed a general unsecured claim in the amount of \$2,433,584.

6. In the Disclosure Statement, Debtor places the SBA in Class 5(b), which the

Disclosure Statement differentiates from Class 5(a) because the Class 5(b) claimants “have non-debtor collateral securing their claims.”

7. While it is accurate that the SBA has a loan secured by 2374 Village Common Drive, Erie, Pennsylvania, which loan is guaranteed by Debtor, the Disclosure Statement filed by Debtor’s business, Tri-State Pain Institute, LLC (“Tri-State”), classifies the SBA as an unsecured creditor because the present estimate is that the SBA’s “unsecured deficiency in the Tri-State case will be approximately \$2,400,000, i.e., the full amount owed.”

8. All of the creditors in Class 5 are general unsecured creditors. But Debtor has divided Class 5 into Class 5(a) and (b). The SBA objects to such division of the unsecured creditors because the Bankruptcy Code states that a plan must provide the same treatment of each claim in a particular class. 11 U.S.C. § 1123(a)(4).

9. Separating the unsecured creditors into different classes places the SBA in a worse position than the unsecured creditors in Class 11(a), and the SBA does not agree to the less favorable treatment. Class 5(a) is projected to receive a 5% dividend while Class 5(b) is projected to receive a <1% dividend.

10. Accordingly, the Disclosure Statement does not provide “adequate information” from which the SBA can make an informed decision about the Plan because the Plan does not comply with the applicable provisions of section 1129(a)(1) and does not provide any explanation or justification as to why the general unsecured creditor class has been separated into two classes.

CONCLUSION

For the reasons stated above, the SBA respectfully requests that this Court deny approval of the Disclosure Statement.

Respectfully submitted,

STEPHEN R. KAUFMAN
ACTING UNITED STATES ATTORNEY

Dated: 3/16/2021

BY: /s/ Jill Locnikar
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Objection to Debtor's Disclosure Statement was served by electronic and/or first-class mail, postage prepaid, this 16th day of March 2021, to and upon:

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Respectfully submitted,

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